

App. Serial No.: 10/815,376  
Atty. Docket No.: 0061-011

IN THE CLAIMS

Please amend the claims as follows:

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- 1        1. (currently amended) An ankle gapping device comprising:  
2              a lower leg engaging apparatus;  
3              a foot engaging apparatus having a first surface adapted to abut a first side of a foot  
4              and a second surface adapted to abut an opposite side of said foot; and  
5              a biasing member disposed between said lower leg engaging apparatus and said foot  
6              engaging apparatus to bias said lower leg engaging apparatus and said foot  
7              engaging apparatus away from each other, said biasing member exerting a  
8              continuous force to simultaneously bias said first and second surfaces of said foot  
9              engaging apparatus away from said lower leg engaging apparatus.
  
- 1        2. (original) An ankle gapping device according to Claim 1, wherein said biasing  
2        member is pneumatic.
  
- 1        3. (original) An ankle gapping device according to Claim 2, further comprising an air  
2        pump coupled to provide compressed air to said pneumatic biasing member.
  
- 1        4. (original) An ankle gapping device according to Claim 2, wherein said biasing  
2        member includes an inflatable tube.
  
- 1        5. (original) An ankle gapping device according to Claim 4, wherein said inflatable tube  
2        is shaped as a sectioned torus.
  
- 1        6. (original) An ankle gapping device according to Claim 4, wherein said inflatable tube  
2        is adapted to generally surround an ankle, and includes a break to facilitate positioning around  
3        said ankle.

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1        7. (original) An ankle gapping device according to Claim 1, wherein said foot engaging  
2 apparatus includes a receiving portion adapted to accept said biasing member.

1        8. (original) An ankle gapping device according to Claim 7, wherein said receiving  
2 portion includes a channel formed in a top portion of said foot engaging apparatus.

1        9. (original) An ankle gapping device according to Claim 7, wherein said receiving  
2 portion is substantially rigid.

1        10. (currently amended) An ankle gapping device according to Claim 1, wherein said  
2 foot engaging apparatus comprises a first surface of said foot engaging device is adapted to abut  
3 a dorsal portion of [[a]] said foot.

1        11. (currently amended) An ankle gapping device according to Claim 10, wherein said  
2 foot engaging apparatus comprises a second surface of said foot engaging apparatus is adapted to  
3 abut a heel of said foot.

1        12. (original) An ankle gapping device according to Claim 11, wherein at least one of  
2 said first and second surfaces is arched.

1        13. (original) An ankle gapping device according to Claim 12, wherein both of said first  
2 and second surfaces are arched.

1        14. (original) An ankle gapping device according to Claim 11, wherein:  
2        said first surface is on a first portion of said foot engaging apparatus;  
3        said second surface is on a second portion of said foot engaging apparatus; and  
4        said first portion of said foot engaging apparatus is flexibly coupled to said second  
5        portion of said foot engaging apparatus.

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1        15. (original) An ankle gapping device according to Claim 14, further comprising a  
2 hinge connecting said first portion of said foot engaging apparatus to said second portion of said  
3 foot engaging apparatus.

1        16. (original) An ankle gapping device according to Claim 14, comprising a securing  
2 device for securing said first portion of said foot engaging apparatus to said second portion of  
3 said foot engaging apparatus about said foot.

1        17. (original) An ankle gapping device according to Claim 1, wherein said leg engaging  
2 apparatus includes a receiving portion adapted to accept said biasing member.

1        18. (original) An ankle gapping device according to Claim 17, wherein said receiving  
2 portion includes a channel formed in a top portion of said leg engaging apparatus.

1        19. (original) An ankle gapping device according to Claim 17, wherein said receiving  
2 portion is rigid.

1        20. (original) An ankle gapping device according to Claim 19, wherein said receiving  
2 portion is flared sufficiently to contain a top portion of said biasing member.

1        21. (original) An ankle gapping device according to Claim 1, wherein said leg engaging  
2 apparatus is formed of material sufficiently rigid to transfer force exerted by said biasing  
3 member to a lower leg of a user.

1        22. (original) An ankle gapping device according to Claim 1, wherein said leg engaging  
2 apparatus is tapered from an upper portion to a lower portion.

1        23. (original) An ankle gapping device according to Claim 22, wherein said leg  
2 engaging apparatus is contoured to conform a human lower leg.

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1        24. (original) An ankle gapping device according to Claim 1, wherein said leg engaging  
2        apparatus is sectioned to facilitate application and removal.

1        25. (original) An ankle gapping device according to Claim 24, wherein said leg  
2        engaging apparatus includes at least two sections.

1        26. (original) An ankle gapping device according to Claim 25, wherein said at least two  
2        sections are flexibly coupled together.

1        27. (original) An ankle gapping device according to Claim 26, wherein said at least two  
2        sections are flexibly coupled together by a hinge.

1        28. (original) An ankle gapping device according to Claim 26, further comprising a  
2        securing member adapted to tightly secure said at least two sections about said leg.

1        29. (original) An ankle gapping device according to Claim 28, wherein said securing  
2        member comprises hook and loop fastener material.

1        30. (original) An ankle gapping device according to Claim 25, wherein said leg  
2        engaging apparatus comprises a semi rigid elastic wrap.

1        31. (previously presented) An ankle gapping device according to Claim 1, wherein:  
2              said foot engaging apparatus defines a seat formed to accept a bottom portion of said  
3              biasing member; and  
4              said leg engaging apparatus defines a seat formed to accept a top portion of said  
5              biasing member.

1        32. (original) An ankle gapping device according to Claim 31, wherein said biasing  
2        member is an inflatable tube.

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1       33. (original) An ankle gapping device according to Claim 1, wherein said biasing  
2 member is capable of exerting a force sufficient to cause separation of an ankle joint.

1       34. (original) An ankle gapping device according to Claim 1, wherein said lower leg  
2 engaging apparatus comprises means for engaging the lower leg of a human being.

1       35. (original) An ankle gapping device according to Claim 1, wherein said foot  
2 engaging apparatus comprises means for engaging a human foot.

1       36. (original) An ankle gapping device according to Claim 1, wherein said biasing  
2 member comprises means for pushing said lower leg engaging apparatus and said foot engaging  
3 apparatus apart from one another.

1       37. (currently amended) A method for gapping an ankle joint, comprising:  
2              applying a foot engaging apparatus to a person's foot, said foot engaging apparatus  
3              having a first surface disposed to abut a first side of said person's foot and a  
4              second surface disposed to abut an opposite side of said person's foot;  
5              applying a leg engaging apparatus to the person's leg;  
6              disposing a biasing member between said foot engaging apparatus and said leg  
7              engaging apparatus; and  
8              actuating said biasing member to urge said foot engaging apparatus and said leg  
9              engaging apparatus apart from one another, said biasing member exerting a  
10             continuous force operative to simultaneously bias said first and second surfaces of  
11             said foot engaging apparatus away from said leg engaging apparatus.

1       38. (currently amended) A method for gapping an ankle joint according to claim 37,  
2 wherein said step of applying said foot engaging apparatus to said foot includes positioning [[a]]  
3 said first portion surface of said foot engaging apparatus on a dorsal side of said foot and  
4 positioning [[a]] said second portion surface of said foot engaging apparatus on a heel of said  
5 foot.

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1       39. (original) A method for gapping an ankle joint according to claim 37, wherein said  
2       step of applying said leg engaging apparatus to said leg includes wrapping said leg engaging  
3       apparatus around the lower leg.

1       40. (original) A method for gapping an ankle joint according to claim 37, wherein said  
2       step of disposing said biasing member between said foot engaging apparatus and said leg  
3       engaging apparatus includes positioning an inflatable tube between said foot engaging apparatus  
4       and said leg engaging apparatus.

1       41. (original) A method for gapping an ankle joint according to claim 40, wherein said  
2       step of actuating said biasing member includes pumping fluid into said inflatable tube.

1       42. (currently amended) An ankle gapping device comprising:  
2              lower leg engaging means;  
3              foot engaging means including at least a first surface for abutting a first side of a foot  
4              and a second surface for abutting a second side of said foot; and  
5              means for continuously pushing said lower leg engaging means and said foot  
6              engaging means in opposite directions, thereby simultaneously biasing said first  
7              and second surfaces of said foot engaging means away from said leg engaging  
8              means.

1       43. (new) An ankle gapping device according to Claim 1, wherein a relative angle  
2       between said foot engaging apparatus and said lower leg engaging apparatus remains constant  
3       when said biasing member is biasing said lower leg engaging apparatus and said foot engaging  
4       apparatus away from each other.

1       44. (new) A method for gapping an ankle joint according to Claim 37, wherein a relative  
2       angle between said foot engaging apparatus and said leg engaging apparatus remains constant  
3       after said biasing member is actuated.

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1        45. (currently amended) An ankle gapping device according to Claim 42, wherein a  
2        relative angle between said foot engaging means and said lower leg engaging means remains  
3        constant as said means for continuously pushing pushes said lower leg engaging means and said  
4        foot engaging means in opposite directions.

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INTERVIEW SUMMARY

Examiner Brandon Jackson and Applicants' attorney Larry Henneman had a telephone interview on July 17, 2008, to discuss the current rejections. Applicants appreciate Examiner Jackson granting the interview and the constructive assistance provided by Examiner Jackson during the interview.

U.S. Patent No. 5,144,943 (Luttrell et al.) was discussed. Mr. Henneman pointed out that the dynamic ankle splint of Luttrell et al. was not an ankle gapping device. In particular, the device of Luttrell urges the heel of a user up and down in order to cause dorsiflexion or plantarflexion. Rather than gapping the ankle joint, the device allows normal articulation of the joint surfaces. When the heel is pushed down, the foot pivots through the ankle joint and the front of the foot is lifted.

After discussing Luttrell et al., Examiner Jackson and Mr. Henneman collaborated to develop claim language to clarify the differences between Luttrell et al. and Applicants' invention. It was agreed that language indicating that force is simultaneous applied in generally the same direction to opposite sides of a user's foot would overcome the rejections over Luttrell et al. The following language was agreed to be acceptable: "to simultaneously bias said first and second surfaces of said foot engaging apparatus away from said leg engaging apparatus." It was understood that this language might require some slight modification depending on the existing language of independent Claims 1, 37, and 42.

Mr. Henneman agreed to amend the claims as suggested by Examiner Jackson.